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Mail Stop PETITION; Commissioner for Patents, PO Box 1450, Alexandria,
VA 22313-1450, on 9-29-10
QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.

By:

Evelyn Burke

Atty Docket No: 54-000711US
Client Ref: 1009.1 US / NOV0608P
Novartis Ref. No. DC/4-33965/SCR

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Lital Alfonta, et al.

Application No.: 10/575,991

Filed: April 13, 2006

For: **SITE-SPECIFIC INCORPORATION
OF REDOX ACTIVE AMINO ACIDS INTO
PROTEINS**

Examiner: Kagnew H. Gebreyesus

Art Unit: 1656

**REPLY TO DISMISSAL OF
PETITION UNDER 37 C.F.R. §
1.137(b) TO REVIVE; and
RENEWED PETITION UNDER 37
C.F.R. § 1.181 TO WITHDRAW
HOLDING OF ABANDONMENT**

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants have previously filed (June 17, 2010) a Petition to Withdraw Holding of Abandonment and a contingent Petition to Revive the above cited application. Both petitions have been dismissed in the Decision mailed August 17, 2010. The Office has allowed two (2) months from the mail date of the Decision to request reconsideration of the Dismissals.

Petitioner provides herein a Renewed Petition to Withdraw Holding of Abandonment under 37 C.F.R. § 1.181 in response to response to the Decision on the Petition mailed August 17, 2010 and the Notice of Abandonment dated June 1, 2010, for the above-referenced application. As the initial petition is filed within two months of the Notice of Abandonment, and the renewed petition has been filed within the two months deadline for reconsideration provided in the Decision, this petition is timely filed under 37 C.F.R. § 1.181(f).

Adjustment date: 03/16/2011 CKHLOK
10/05/2010 MDELETE1 00000034 500893 10575991
01 FC:1453 1620.00 CR

10/05/2010 MDELETE1 00000034 500893 10575991
01 FC:1453 1620.00 DA

The Notice of Abandonment indicated that the application was abandoned for failure to respond to the outstanding Final Office Action dated November 13, 2009.

Applicants petition for withdrawal of the Notice of Abandonment on the ground that Applicants never received the Office Action (the Action), said to have been mailed on November 13, 2009. That is, Petitioners hereby confirm non-receipt of the Action at the correspondence address of record: QUINE INTELLECTUAL PROPERTY LAW GROUP, PO BOX 458; Alameda, CA 94501. As is noted in the attached Declaration of Attorney Gary Baker, the Office Action was never received at the Quine IP Law Group.

Further, Petitioner states that a search (of the file, docket and calendar) was made by Petitioner without discovery of any record indicating the Action had been received. The search included at least review of physical locations of file processing and the permanent physical file for the application. In particular, the search of the hard file jacket for the application, where the Action would be expected to reside if received, revealed no copy of the Action. The Quine IP Law Group consistently and reliably processes incoming communications and does not have a history of misfiling or non-receipt of Office communications.

Petitioner notes that the Quine IP Law Group maintains a system for recording an Office action received at the correspondence address of record with the USPTO. All USPTO communications received at the correspondence address of record are systematically entered into IP Master docketing software. Data entered into the docket system regarding the Office communications received include at least the application number, attorney docket number, mail date of the Office action and the due date of the response.

Attached is a copy of the records used by the Quine IP Law Group where the non-received Office Action would have been entered had it been received. As outlined in MPEP 711.03(c)(A), the showing of non-receipt includes the output from the master docket from the firm. Attached is a copy of the Quine IP Law Group master docket (Daily Docket report with notes redacted as not material to issues at hand) showing all replies docketed for a date (February 13, 2010) three months from the mail date from the mail date of the non-received Office Action. Because the due date of February 13, 2010 was a Saturday, the Daily Docket for that date includes all entries from 2/12 to 2/15 of 20010. Note there is no entry for Quine docket number 54-000711 (application 10/575,991). Although Office Action response dates are diligently and systematically

entered into the Quine Law Group docket system, no entry exists for the nonrecieved Office Action in the matter of application 10/575,991.

Withdrawal of the holding of abandonment and consideration of the attached response is respectfully requested.

The Contingent Petition to Revive under 37 CFR § 1.137 (b) was dismissed for allegedly not satisfying the fee requirements. However, Applicants note that the fee requirements were in fact met. Petitioner stated, at page 2 of the June 17, 2010, Petition that "If necessary to consider the Petition under 37 CFR 1.137 (b), a petition fee is provided, as set forth in § 1.17(m)." In the Fee Transmittal for (PTO/SB/17) of June 17, 2010, Petitioner provided a payment method, a deposit account number and specifically authorized charge of fees under 37 CFR 1.17. Therefore, all requirements for the contingent Petition to Revive were met.

Only, in the event that the Petition to Withdraw Holding of Abandonment under 37 C.F.R. § 1.181 (above) is not granted, please consider the Petition to Revive based on unintentional abandonment under 37 CFR § 1.137 (b). I hereby state that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The petition fee, as set forth in § 1.17(m), is provided to consider the Petition under 37 CFR § 1.137 (b). Petitioner requests return of any overpayment of fees. Further, present in this filing is another copy of the Response to the November 13, 2009, Office Action, and a signed Terminal Disclaimer. Therefore, all requirements of for a Petition to Revive under 37 CFR § 1.137 (b) are again met in this filing.

The Petition of June 17, 2010, met all requirements, including payment of required fees. Further, the present filing provides all elements required under 37 CFR § 1.137 (b) for a Petition to Revive. Therefore, Petitioner requests consideration of the Petition to Revive for unintentional delay.

If it is determined that this petition cannot be granted, the Examiner is requested to please telephone the undersigned at (510) 769-3510.

QUINE INTELLECTUAL PROPERTY
LAW GROUP, P.C.
P.O. BOX 458
Alameda, CA 94501
Tel: 510 337-7871
Fax: 510 337-7877

Respectfully submitted,


Gary Baker
Reg. No: 41,595

Attachments:

- 1) A transmittal sheet;
- 2) Fee Transmittal;
- 3) Response;
- 4) Terminal Disclaimer;
- 5) Declaration of Petitioner;
- 6) Master Docket daily entry for 2/13/10; and,
- 7) A Receipt Indication Postcard

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND				10/575,991
1 Date of Request:		2 Serial/Patent # 10/575,991		
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			\$
	Amendment			\$
	Extension of Time			\$
	Notice of Appeal/Appeal			\$
X	Petition			\$ 1,620.00
	Issue			\$
	Cert of Correction/Terminal Disc.			\$
	Maintenance			\$
	Assignment			\$
	Other			\$
		7 TOTAL AMOUNT OF REFUND	\$ 1,620.00	
8 TO BE REFUNDED BY:				
10 REASON:		Treasury Check		
	Overpayment	X	Credit Deposit A/C #:	
	Duplicate Payment		9 5 0 -- 0 8 9 3	
	No Fee Due (Explanation): x			
pet moot				
11 REFUND REQUESTED BY:				
TYPED/PRINTED NAME:		jgillon	TITLE: atty	
SIGNATURE:		/jgillon/	PHONE: 23214	
OFFICE: op				
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****				
APPROVED: 		DATE: 3/16/11		

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Crystal Park One, Room 802B